

FILEDUNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

AO 91 (Rev. 11/11) Criminal Complaint

MAY 09 2016

UNITED STATES DISTRICT COURT

for the

District of New Mexico

MATTHEW J. DYKMAN

CLERK

United States of America

v.

Jesus F. Hernandez

Case No. 16mj 2108

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 06, 2016 in the county of Bernalillo in the
District of New Mexico, the defendant(s) violated:

Code Section

Offense Description

18 USC 111

(4) counts Assaulting, resisting or impeding certain officers or employees.

This criminal complaint is based on these facts:

See attached affidavit.

☒ Continued on the attached sheet.

Complainant's signature

David Couch

Printed name and title

Sworn to before me and signed in my presence. *telephonically*
*by*Date: 5/6/16City and state: Albuquerque NM

Judge's signature

Steven C. Yardbrough

Printed name and title

US Magistrate Judge

AFFIDAVIT

1. I am Officer David Couch of the Department of Veterans Affairs Police, and I am assigned to the New Mexico Department of Veterans Affairs Health Care System in Albuquerque, New Mexico.
2. The information contained in this affidavit does not include everything I know, but rather is submitted for the limited purpose of providing probable cause to support the attached criminal complaint.
3. On May 6th, 2016, VA Police Officers Couch, Clay, and Montano answered a call to the bus stop due to a passenger refusing to depart the city bus due to intoxication.
4. Upon arrival Officer Montano and I encountered the subject later identified as Jesus F. Hernandez, He appeared to be very intoxicated and began to curse at police.
5. I verbally made contact with Hernandez requesting his Identification. He then shouted I have a gun and attempted to spit in my face. I gave verbal commands to stop spitting and resisting arrest. Officer Montano and I cuffed the subject while he was resisting and attempting to spit on us.
6. Hernandez repeatedly attempted to slam his head against the bus stop wall during this process. Officer Clay brought a patrol unit to transport Hernandez and while we were loading him into the patrol unit he then spit on me again on the side of my neck and arm. I gave verbal commands to stop spitting and resisting and the subject escalated in his efforts. Hernandez during this process managed to spit on myself, Officer Montano, Officer Clay.
7. Hernandez was then transported to building 1, Police administration to be placed in the holding room for processing. While unloading Hernandez in front of building 1, I witnessed him spit on Deputy Chief McMurray. Deputy Chief folded his shirt over his head to prevent him from spitting on other patients and officers.
8. Mr. Hernandez was being escorted down the hallway to the holding room; Officer Montano stopped Mr. Hernandez facing the wall as Officer Couch unlocked the door to the holding area. At that time Mr. Hernandez violently head butted the wall and attempted to do it a second time. Officer Montano pulled Mr. Hernandez away from the wall on the second attempt to prevent further injury.
9. Mr. Hernandez was searched and placed in the holding cell. Officer Montano and Officer Clay advised me that they witnessed Mr. Hernandez spit on the Deputy Chief McMurray.

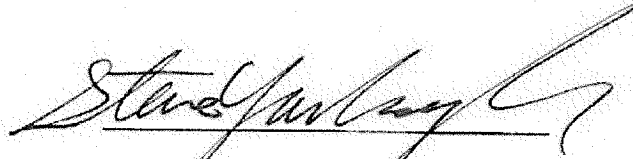
10. VA Police have had several official contacts with Mr. Hernandez in the past. In the past he has complied with our request to depart VA property without incident. In this incident Mr. Hernandez was extremely assaultive to police personnel and efforts were made to protect the staff and patients. VA police is concerned for the safety and welfare of the staff and patients at the VAMC.
11. Based on the above information, I have reason to believe that Jesus F. Hernandez, year of birth 1976, committed a violation of 18 U.S.C. 111, assaulting, resisting or impeding certain officers or employees.

Subscribed and sworn to before me this 6th day of May, 2016.

Respectfully submitted,

Sworn telephonically 5/6/16

Officer David Couch *scg*
Veterans Affairs Police Department
Veterans Administration Medical
Center



United States Magistrate Judge